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PATENT
Attorney Docket No. 56490.000002

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

David VERCHERE

Serial No.: 09/441,204

Filed: November 16, 1999

For: METHOD AND SYSTEM FOR ACQUIRING
BRANDED PROMOTIONAL PRODUCTS

) Group Art Unit: 3625

) Examiner: Robert M. Pond

#13 Response
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SUBMISSION OF DECLARATION UNDER 37 C.F.R. § 1.131

Box: AF

Director of the United States
Patent and Trademark Office
Washington, D.C. 20231

Sir:

In the Office Action mailed on August 27, 2002, the Examiner rejects claims 10 and 20 under 35 U.S.C. § 103(a) as being unpatentable over PR Newswire articles ("Fulfilling the Promise of the Internet at Starbelly.com," dated **September 22, 1999** and "Chase Capital Partners and Flatiron Partners Invest in Internet Company Starbelly.com," dated **August 25, 1999**) in view of Business Wire articles ("Ventures Funds Online Business-to-Business Marketplace, BizBuyer.com; Next-Generation Bidding System Matches Small Business with Qualified Vendors" dated **June 22, 1999** and "BizBuyer.com Unveils Distinctive New Brand Identity; Leading Business-to-Business Site Launches New User Interface and Comprehensive Marketing Effort," dated **September 22, 1999**).

The Examiner rejects claims 21, 23, 26 and 28 under 35 U.S.C. § 103(a) as being unpatentable over PR Newswire articles ("Fulfilling the Promise of the Internet at

not effective Jan 1-31-03
(See Advisory Action - Paper #14)

Starbelly.com,” dated **September 22, 1999** and “Chase Capital Partners and Flatiron Partners Invest in Internet Company Starbelly.com,” dated **August 25, 1999**).

The Examiner rejects claims 22 and 27 under 35 U.S.C. § 103(a) as being unpatentable over PR Newswire articles (“Fulfilling the Promise of the Internet at Starbelly.com,” dated **September 22, 1999** and “Chase Capital Partners and Flatiron Partners Invest in Internet Company Starbelly.com,” dated **August 25, 1999**) in view of Graham article “The Remaking of the Distribution Chain,” dated **August 1999**.

The Examiner rejects claims 24 and 29 under 35 U.S.C. § 103(a) as being unpatentable over PR Newswire articles (“Fulfilling the Promise of the Internet at Starbelly.com,” dated **September 22, 1999** and “Chase Capital Partners and Flatiron Partners Invest in Internet Company Starbelly.com,” dated **August 25, 1999**) in view of M2Presswire article (“Dell and the Internet go from Strength to Strength,” dated July 7, 1998).

The Examiner rejects claims 25 and 30 under 35 U.S.C. § 103(a) as being unpatentable over PR Newswire articles (“Fulfilling the Promise of the Internet at Starbelly.com,” dated **September 22, 1999** and “Chase Capital Partners and Flatiron Partners Invest in Internet Company Starbelly.com,” dated **August 25, 1999**) in view of Business Wire articles (“Ventures Funds Online Business-to-Business Marketplace, BizBuyer.com; Next-Generation Bidding System Matches Small Business with Qualified Vendors” dated **June 22, 1999** and “BizBuyer.com Unveils Distinctive New Brand Identity; Leading Business-to-Business Site Launches New User Interface and Comprehensive Marketing Effort,” dated **September 22, 1999**).

While Applicant respectfully disagrees that the asserted combination of references renders Applicant’s invention unpatentable, in response to the rejections based on the above

identified articles, Applicant submits herewith (attached as Appendix A), pursuant to 37 C.F.R. § 1.131, the declaration of Applicant David Verchere and corroborating declarations of Lynne Verchere (attached as Appendix B) and Jeremiah J. Sheehan (attached as Appendix C) establishing conception. Applicant submits herewith documentation in the form of Business Plan (attached as Appendix D) and Development Plan (attached as Appendix D) establishing due diligence from the conception to the filing of the patent application. Applicant submits these declarations under Rule 131 for the purpose of overcoming the above identified articles by establishing the date of invention of the subject matter of claims 10, 20-30 prior to at least June 22, 1999, the effective date of one of the Business Wire articles. By overcoming the June 22, 1999 Business wire reference, PR Newswire articles dated September 22, 1999 and August 25, 1999, Business Wire article dated September 22, 1999, Graham article dated August 1999 and Business Wire article dated October 6, 1999 cannot be considered prior art and the rejections based on these articles should be withdrawn.

The declaration of Applicant, David Verchere, as supported by corroborating declarations and documents, clearly demonstrates a conception of the invention which is the subject matter of this application prior to at least June 22, 1999, the effective date of one of the identified articles, coupled with due diligence from the conception date to the filing of the application.

CONCLUSION

In accordance with the foregoing, it is respectfully submitted that the six articles published on or after June 22, 1999 are not prior art. If the Examiner has any remaining informalities to be addressed, it is believed that prosecution can be expedited by the Examiner contacting the undersigned attorney for a telephone interview to discuss resolution of such informalities.